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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,367	12/22/2003	Mahendra R. Patel	4-33515P1	7967
72554 SANDOZ INC	7590 06/25/200		EXAMINER	
506 CARNEFIE CENTER			MOORE, SUSANNA	
PRINCETON, NJ 08540			ART UNIT	PAPER NUMBER
			1624	
			MAIL DATE	DELIVERY MODE
			06/25/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/743,367	PATEL ET AL.
Office Action Summary	Examiner	Art Unit
	SUSANNA MOORE	1624
The MAILING DATE of this communication ap Period for Reply	ppears on the cover sheet with the	correspondence address
A SHORTENED STATUTORY PERIOD FOR REPLEWHICHEVER IS LONGER, FROM THE MAILING ID. - Extensions of time may be available under the provisions of 37 CFR 1 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period. - Failure to reply within the set or extended period for reply will, by stature Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICATION .136(a). In no event, however, may a reply be tind d will apply and will expire SIX (6) MONTHS from te, cause the application to become ABANDONE	N. mely filed the mailing date of this communication. ED (35 U.S.C. § 133).
Status		
1) Responsive to communication(s) filed on 30. 2a) This action is FINAL . 2b) This 3) Since this application is in condition for allowated closed in accordance with the practice under	is action is non-final. ance except for formal matters, pro	
Disposition of Claims		
4) Claim(s) <u>1-20</u> is/are pending in the application 4a) Of the above claim(s) is/are withdra 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) <u>1-20</u> are subject to restriction and/or	awn from consideration.	
Application Papers		
9) The specification is objected to by the Examin 10) The drawing(s) filed on is/are: a) ac Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the E	cepted or b) objected to by the drawing(s) be held in abeyance. Se ction is required if the drawing(s) is ob	e 37 CFR 1.85(a). ejected to. See 37 CFR 1.121(d).
Priority under 35 U.S.C. § 119		
12) Acknowledgment is made of a claim for foreig a) All b) Some * c) None of: 1. Certified copies of the priority documer 2. Certified copies of the priority documer 3. Copies of the certified copies of the priority documer application from the International Burea * See the attached detailed Office action for a lis	nts have been received. nts have been received in Applicat ority documents have been receiv au (PCT Rule 17.2(a)).	ion No ed in this National Stage
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail D 5) Notice of Informal F 6) Other:	ate

DETAILED ACTION

The instant Application is being examined by a different Examiner. The current claim set was used for the restriction requirement.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

Claim 1 generic to the following disclosed patentably distinct species: a composition comprising an antiobiotic and polymer. The species are independent or distinct because a composition of a tetracycline antibiotic with a cellulose polymer may not render obvious a composition of fluoroquinolines and poly(ethylene oxide). Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, an antibiotic and polymer, even though this requirement is traversed.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

This application contains claims directed to the following patentably distinct species: such as those claimed in claims 2 and 5. The species are independent or distinct because the specie differ materially in structure and element so much so as to be patentably distinct. In addition, a reference that anticipates one species may not even render obvious the other(s).

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Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The identification of a single disclosed elected species (e.g., Example number, page number and structural depiction) is required from whichever group is ultimately elected, even though this requirement is traversed. Applicant must also provide the claims which read upon said specie.

Upon the election of a single disclosed species (e.g. Example, page number and structural depiction), a scope of the elected invention that has been examined, inclusive of the elected species, will be identified by the Examiner for examination. Alternatively, if the s search of the elected group becomes arduous, the elected group may be examined according to MPEP 803.02.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17 (i).

Restriction for examination purposes as indicated is proper because all these inventions listed in his action are independent or distinct for the reasons given above and there would be a

serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes-subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the ~requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement; the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the "elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either

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instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone call was made to Mark Graham on June 15, 2009 to request an oral election to the above restriction requirement, but did not result in an election being made.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna Moore whose telephone number is (571) 272-9046. The examiner can normally be reached on M-F 8:00-5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Wilson can be reached on (571) 272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Susanna Moore/ /James O. Wilson/

Examiner, Art Unit 1624 Supervisory Patent Examiner, Art Unit 1624